THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.7558 OF 2006

DATED: 17-04-2006

Between

Mamidi Ramana,

S/o. Guruvulu,

R/o. Gambeeram Village,

Visakhapatnam District.

...PETITIONER

AND

Visakhapatnam Urban Development

Authority, Rep. by its Vice-Chairman,

Visakhapatnam and others.

...RESPONDENTS

ORDER:

This writ petition is filed seeking a Writ of Mandamus to declare the action of the respondents 1 and 2 in attempting to dispossess the petitioner from his land and thereby trying to demolish the part of the compound wall situated in an extent of 750 sq. yards in Sy.No.116/16B, Yendad, Musalayyapalem Village, Chinagadili Mandal, Visakhapatnam District without issuing any notice or giving an opportunity of being heard as illegal and arbitrary.

Learned counsel for the petitioner submits that the petitioner purchased the aforementioned land from one Mr. Mettapalli Ram Gopal under a registered sale deed 03.03.2005 for a valuable consideration and since then he has been in peaceful possession and enjoyment of the same. While so, the respondents 1 and 2 came the land of the petitioner and tried to place some marking stones and attempted to demolish the part of the compound wall without assigning any reasons and the respondents stated that they are taking over the land for the purpose of laying a road to connect to the main road. He further submits that the proposed action of the respondents 1 and 2 to form a new road by disturbing the possession of the petitioner without issuing any notice or following due process of law is against the principles of natural justice.

The learned counsel for the petitioner further submits that the action of respondents 1 and 2 without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Municipal Corporations Act (for short 'the Act').

No doubt widening/laying of the road is in the public interest but while laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law. This Court disposed of number of writ petitions directing the respondent not to demolish the houses of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case,
this writ petition is disposed of directing the respondents not to demolish the structures or take away any portion of the property of the petitioner and not to dispossess him without following due process of law either under Section 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894. No costs.

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V. ESWARAIAH, J

April 17, 2006

Note: Furnish C.C. of the order by 19.04.2006

(**B/o**)

DSK